

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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**FISCAL IMPACT STATEMENT**

**LS 6916**

**BILL NUMBER:** SB 398

**NOTE PREPARED:** Jan 30, 2012

**BILL AMENDED:** Jan 30, 2012

**SUBJECT:** State Chemist Issues.

**FIRST AUTHOR:** Sen. Mishler

**FIRST SPONSOR:**

**BILL STATUS:** 2<sup>nd</sup> Reading - 1<sup>st</sup> House

**FUNDS AFFECTED:** X GENERAL  
X DEDICATED  
FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** (Amended) This bill provides civil penalty authority to the State Chemist under the agricultural ammonia law and subpoena authority to the State Chemist under the agricultural ammonia law and commercial fertilizers laws. It provides that the State Chemist may impose a civil penalty only according to a schedule recommended by the Fertilizer Advisory Board.

The bill amends the pesticide laws and the pesticide use and application laws as follows:

- (1) Expands the definition of "produce".
- (2) Makes changes to the qualifications of certain members on the Pesticide Review Board.
- (3) Makes changes to the duties and rule-making authority of the Pesticide Review Board.
- (4) Exempts employees of nonprofit organizations from the annual pesticide applicator license fee.
- (5) Repeals registration requirements and fees for pesticide consultants.
- (6) Amends provisions of state pesticide law to apply to all pesticide products, including both chemicals and devices. (Current law applies only to chemicals.)
- (7) Makes changes to comply with federal pesticide laws.

The bill amends the commercial feed laws as follows:

- (1) Adds and amends numerous definitions.
- (2) Adds a late fee for distributing feed before applying for a license.
- (3) Allows the State Chemist to revoke, suspend, or place conditions on a commercial feed license that is not in compliance.
- (4) Makes changes to required labeling information.
- (5) Provides conditions that make commercial feed adulterated.

- (6) Adds authority to adopt rules concerning foods for specialty pets.
- (7) Increases the penalty for certain violations from a Class C infraction to a Class A infraction.

The bill allows milk producers to sell raw milk to consumers under certain conditions.

The bill also makes technical changes.

**Effective Date:** July 1, 2012.

**Explanation of State Expenditures:** (Revised) *State Board of Animal Health:* This bill provides that the State Board of Animal Health shall register certain milk producers as persons who may sell raw milk to consumers. Any increase in expenditures will depend upon the extent that registrations will need to be provided.

**Explanation of State Revenues:** *Civil Penalties:* The bill provides that the State Chemist may impose civil penalties under a schedule adopted by the Fertilizer Advisory Board. The amount of revenue that will be collected from penalties will depend on the number and nature of violations and the penalty schedule adopted by the board.

*Pesticide Applicator License Fees:* It is unknown how many employees of not-for-profit organizations apply for the pesticide applicator license fee, but there are likely not very many. Thus, exempting the employees from the pesticide applicator license fees would likely have a minimal impact. A total of about \$760,000 was collected during FY 2011 for pesticide application license fees. These fees fund the operations of the State Chemist's office.

*Pesticide Consultant Registration and Fees:* This bill repeals registration requirements and fees for pesticide consultants. According to the State Chemist's office, on average there are about 350 registered consultants annually. They are charged a fee of \$45, which generates about \$15,750 annually. These funds go directly into an account used to fund operational activities such as issuing annual credentials, performing requisite accounting functions, doing compliance outreach, and performing compliance inspections and investigations. The cost of performing those activities exceeds the level of income generated.

*Late Fees for Distributing Feed before Applying for a License:* According to the State Chemist's office, there were about 45 to 50 companies that had products in the marketplace without being licensed first during 2011. If they were charged a \$50 fee, then about \$2,250 to \$2,500 would have been assessed in late filing fees.

*Penalty Increases:* This bill increases the penalty for several violations from Class C infractions to Class A infractions, potentially increasing revenue to the state General Fund. However, any change in revenue is likely to be small. Currently, the maximum judgment for a Class C infraction is \$500, while the maximum judgment for a Class A infraction is \$10,000.

The penalties are increased for the following violations:

- (1) The manufacture or distribution of a commercial feed that is adulterated or misbranded.
- (2) The adulteration or misbranding of a commercial feed.
- (3) The distribution of agricultural commodities, such as whole seed, hay, straw, stover, silage, cobs, husks, and hulls, that are adulterated.
- (4) The removal or disposal of a commercial feed in violation of an order under IC 15-19-7-38 or IC 15-19-7-

39.

- (5) The failure to obtain a commercial feed license.
- (6) The failure to pay inspection fees or file reports.

**Explanation of Local Expenditures:**

**Explanation of Local Revenues:** *Penalty Increases:* If additional court actions are filed and a judgment is entered, local governments would receive revenue from court fees. However, any additional revenue is likely to be small.

**State Agencies Affected:** State Chemist; Fertilizer Advisory Board; State Board of Health.

**Local Agencies Affected:** Trial courts; local law enforcement agencies.

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